

Senate File 2088

H-8100

1 Amend the amendment, H-8045, to Senate File 2088,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 1, by striking lines 1 through 50 and  
5 inserting:  
6 <\_\_\_\_. By striking page 1, line 3, through page 9,  
7 line 34, and inserting:  
8 <Sec. \_\_\_\_\_. Section 8.6, Code Supplement 2009, is  
9 amended by adding the following new subsection:  
10 NEW SUBSECTION. 17. Provide such assistance and  
11 administrative support services to the information  
12 technology division, created in section 8B.2, as the  
13 department and the division determine maximizes the  
14 efficiency and effectiveness of both the department and  
15 division.  
16 Sec. \_\_\_\_\_. Section 8A.101, unnumbered paragraph 1,  
17 Code 2009, is amended to read as follows:  
18 As used in this chapter and chapter 8B, unless the  
19 context otherwise requires:  
20 Sec. \_\_\_\_\_. Section 8A.104, subsection 12, Code 2009,  
21 is amended by striking the subsection.  
22 Sec. \_\_\_\_\_. Section 8A.111, subsections 3, 4, and 5,  
23 Code 2009, are amended by striking the subsections.  
24 SUBCHAPTER I  
25 ADMINISTRATION — GENERAL PROVISIONS  
26 Sec. \_\_\_\_\_. NEW SECTION. **8B.1 Definitions.**  
27 As used in this chapter, unless the context  
28 otherwise requires:  
29 1. "*Council*" means the technology advisory council  
30 created in section 8B.8.  
31 2. "*Division*" means the information technology  
32 division of the department of management.  
33 3. "*Information technology*" means computing and  
34 electronics applications used to process and distribute  
35 information in digital and other forms and includes  
36 information technology devices, information technology  
37 services, infrastructure services, and value added  
38 services.  
39 4. "*Information technology device*" means equipment  
40 or associated software, including programs, languages,  
41 procedures, or associated documentation, used  
42 in operating the equipment which is designed for  
43 utilizing information stored in an electronic format.  
44 "*Information technology device*" includes but is not  
45 limited to computer systems, computer networks, and  
46 equipment used for input, output, processing, storage,  
47 display, scanning, and printing.  
48 5. "*Information technology services*" means services  
49 designed to do any of the following:  
50 a. Provide functions, maintenance, and support of

1 information technology devices.  
2     *b.* Provide services including but not limited to  
3 any of the following:  
4     (1) Computer systems application development and  
5 maintenance.  
6     (2) Systems integration and interoperability.  
7     (3) Operating systems maintenance and design.  
8     (4) Computer systems programming.  
9     (5) Computer systems software support.  
10    (6) Planning and security relating to information  
11 technology devices.  
12    (7) Data management consultation.  
13    (8) Information technology education and  
14 consulting.  
15    (9) Information technology planning and standards.  
16    (10) Establishment of workstation management  
17 standards.  
18    6. *"Infrastructure services"* includes all of the  
19 following:  
20    *a.* Data centers used to support mainframe and other  
21 computers and their associated components including  
22 servers, information networks, storage systems,  
23 redundant or backup power systems, redundant data  
24 communications connections, environmental controls, and  
25 security devices.  
26    *b.* Servers, mainframes, or other centralized  
27 processing systems.  
28    *c.* Storage systems, including but not limited to  
29 disk, tape, optical, and other structured repositories  
30 for storing digital information.  
31    *d.* Computer networks commonly referred to as local  
32 area networks.  
33    *e.* Network services, including equipment and  
34 software which support local area networks, campus  
35 area networks, wide area networks and metro area  
36 networks. Network services also include data network  
37 services such as routers, switches, firewalls, virtual  
38 private networks, intrusion detection systems, access  
39 control, internet protocol load balancers, event  
40 logging and correlation, and content caching. Network  
41 services do not include services provided by the Iowa  
42 communications network pursuant to chapter 8D or by  
43 the public broadcasting division of the department of  
44 education.  
45    *f.* Groupware applications used to facilitate  
46 collaboration, communication, and workflow, including  
47 electronic mail, directory services, calendaring and  
48 scheduling, and imaging systems.  
49    *g.* Information technology help desk services.  
50    *h.* Cyber security functions and equipment.

1     *i.* Digital printing and printing procurement  
2 services.  
3     *j.* Data warehouses, including services that assist  
4 in managing and locating digital information.  
5     *k.* Disaster recovery technology and services.  
6     *l.* Other similar or related services as determined  
7 by the chief information officer.  
8     7. "*Participating agency*" means any state agency,  
9 except the state board of regents and institutions  
10 operated under the authority of the state board of  
11 regents.  
12     8. "*Value-added services*" means services that  
13 offer or provide unique, special, or enhanced value,  
14 benefits, or features to the customer or user including  
15 but not limited to services in which information  
16 technology is specially designed, modified, or adapted  
17 to meet the special or requested needs of the user or  
18 customer; services involving the delivery, provision,  
19 or transmission of information or data that require or  
20 involve additional processing, formatting, enhancement,  
21 compilation, or security; services that provide the  
22 customer or user with enhanced accessibility, security,  
23 or convenience; research and development services; and  
24 services that are provided to support technological  
25 or statutory requirements imposed on participating  
26 agencies and other governmental entities, businesses,  
27 and the public.  
28     Sec. \_\_\_\_\_. **NEW SECTION. 8B.2 Division created —**  
29 **chief information officer appointed.**  
30     1. The information technology division is created  
31 as an independent office within the department  
32 of management. The division is to be headed and  
33 administered by the chief information officer for  
34 the state. The chief information officer shall be  
35 appointed by the governor to serve at the pleasure of  
36 the governor and is subject to confirmation by the  
37 senate. If the office becomes vacant, the vacancy  
38 shall be filled in the same manner as provided for the  
39 original appointment.  
40     2. The person appointed as the chief information  
41 officer for the state shall be professionally qualified  
42 by education and have no less than five years'  
43 experience in the field of information technology, and  
44 a working knowledge of financial management. The chief  
45 information officer shall not be a member of any local,  
46 state, or national committee of a political party,  
47 an officer or member of a committee in any partisan  
48 political club or organization, or hold or be a  
49 candidate for a paid elective public office. The chief  
50 information officer is subject to the restrictions on

1 political activity provided in section 8A.416 and shall  
2 not serve as an employee in any other executive branch  
3 agency.

4 Sec. \_\_\_\_\_. NEW SECTION. **8B.3 Division — purpose**  
5 **— mission.**

6 1. The division is created for the purpose of  
7 managing and coordinating the major information  
8 technology resources of state government.

9 2. The mission of the division is to provide high  
10 quality, customer focused information technology  
11 services and business solutions to government and to  
12 citizens.

13 Sec. \_\_\_\_\_. NEW SECTION. **8B.4 Powers and duties of**  
14 **the chief information officer.**

15 The chief information officer shall do all of the  
16 following:

17 1. Coordinate the internal operations of  
18 the division and develop and implement policies  
19 and procedures designed to ensure the efficient  
20 administration of the division.

21 2. Appoint all personnel deemed necessary for the  
22 administration of the division's functions as provided  
23 in this chapter.

24 3. Prepare an annual budget for the division.

25 4. Develop and recommend legislative proposals  
26 deemed necessary for the continued efficiency of the  
27 division's functions, and review legislative proposals  
28 generated outside the division which are related to  
29 matters within the division's purview.

30 5. Adopt rules deemed necessary for the  
31 administration of this chapter in accordance with  
32 chapter 17A.

33 6. Prescribe and adopt information technology  
34 standards and rules.

35 7. Develop and recommend legislative proposals  
36 deemed necessary for the continued efficiency of  
37 the division in performing information technology  
38 functions, and review legislative proposals generated  
39 outside of the division which are related to matters  
40 within the division's purview.

41 8. Provide advice to the governor on issues related  
42 to information technology.

43 9. Consult with agencies and other governmental  
44 entities on issues relating to information technology.

45 10. Work with all governmental entities in an  
46 effort to achieve the information technology goals  
47 established by the division.

48 11. Utilize, in a manner determined by the chief  
49 information officer, such assistance and administrative  
50 support services as provided by the department of

1 management as the division determines maximizes the  
2 efficiency and effectiveness of the division.

3 12. Enter into contracts for the receipt and  
4 provision of services as deemed necessary. The chief  
5 information officer and the governor may obtain and  
6 accept grants and receipts to or for the state to be  
7 used for the administration of the division's functions  
8 as provided in this chapter.

9 13. Exercise and perform such other powers and  
10 duties as may be prescribed by law.

11 Sec. \_\_\_\_\_. NEW SECTION. 8B.5 Prohibited interests  
12 — penalty.

13 The chief information officer shall not have any  
14 pecuniary interest, directly or indirectly, in any  
15 contract for supplies furnished to the state, or in any  
16 business enterprise involving any expenditure by the  
17 state. A violation of the provisions of this section  
18 is a serious misdemeanor, and upon conviction, the  
19 chief information officer shall be removed from office  
20 in addition to any other penalty.

21 Sec. \_\_\_\_\_. NEW SECTION. 8B.6 Acceptance of funds.

22 The division may receive and accept donations,  
23 grants, gifts, and contributions in the form of moneys,  
24 services, materials, or otherwise, from the United  
25 States or any of its agencies, from this state or any  
26 of its agencies, or from any other person, and may use  
27 or expend such moneys, services, materials, or other  
28 contributions, or issue grants, in carrying out the  
29 operations of the division. All federal grants to and  
30 the federal receipts of the division are appropriated  
31 for the purpose set forth in such federal grants  
32 or receipts. The division shall report annually to  
33 the general assembly on or before September 1 the  
34 donations, grants, gifts, and contributions with a  
35 monetary value of one thousand dollars or more that  
36 were received during the most recently concluded fiscal  
37 year.

38 Sec. \_\_\_\_\_. NEW SECTION. 8B.7 Federal funds.

39 1. Neither the provisions of this chapter nor  
40 rules adopted pursuant to this chapter shall apply  
41 in any situation where such provision or rule is in  
42 conflict with a governing federal regulation or where  
43 the provision or rule would jeopardize the receipt of  
44 federal funds.

45 2. If it is determined by the attorney general that  
46 any provision of this chapter would cause denial of  
47 funds or services from the United States government  
48 which would otherwise be available to an agency of this  
49 state, such provision shall be suspended as to such  
50 agency, but only to the extent necessary to prevent

1 denial of such funds or services.  
2 Sec. \_\_\_\_\_. NEW SECTION. 8B.8 Technology advisory  
3 council.  
4 1. *Definitions.* For purposes of this section,  
5 unless the context otherwise requires:  
6 a. "Large agency" means a participating agency  
7 with more than seven hundred full-time, year-round  
8 employees.  
9 b. "Medium-sized agency" means a participating  
10 agency with at least seventy or more full-time,  
11 year-round employees, but not more than seven hundred  
12 permanent employees.  
13 c. "Small agency" means a participating agency with  
14 less than seventy full-time, year-round employees.  
15 2. *Membership.*  
16 a. The technology advisory council is composed of  
17 ten members as follows:  
18 (1) The chief information officer.  
19 (2) The director of the department of management,  
20 or the director's designee.  
21 (3) Eight members appointed by the governor as  
22 follows:  
23 (a) Three representatives from large agencies.  
24 (b) Two representatives from medium-sized agencies.  
25 (c) One representative from a small agency.  
26 (d) Two public members who are knowledgeable and  
27 have experience in information technology matters.  
28 b. (1) Members appointed pursuant to paragraph  
29 "a", subparagraph (3), shall serve two-year staggered  
30 terms. The division shall provide, by rule, for  
31 the commencement of the term of membership for the  
32 nonpublic members. The terms of the public members  
33 shall be staggered at the discretion of the governor.  
34 (2) Sections 69.16, 69.16A, and 69.19 shall apply  
35 to the public members of the council.  
36 (3) Public members appointed by the governor are  
37 subject to senate confirmation.  
38 (4) Public members appointed by the governor may be  
39 eligible to receive compensation as provided in section  
40 7E.6.  
41 (5) Members shall be reimbursed for actual and  
42 necessary expenses incurred in performance of the  
43 members' duties.  
44 (6) A director, deputy director, or employee  
45 with information technology expertise of an agency  
46 is preferred as an appointed representative for each  
47 of the agency categories of membership pursuant to  
48 paragraph "a", subparagraph (3).  
49 c. The technology advisory council annually shall  
50 elect a chair and a vice chair from among the members

1 of the council, by majority vote, to serve one-year  
2 terms.

3 *d.* A majority of the members of the council shall  
4 constitute a quorum.

5 *e.* Meetings of the council shall be held at the  
6 call of the chairperson or at the request of three  
7 members.

8 3. *Powers and duties of the council.* The powers  
9 and duties of the technology advisory council as they  
10 relate to information technology services shall include  
11 but are not limited to all of the following:

12 *a.* Advise the chief information officer in  
13 developing and adopting information technology  
14 standards pursuant to sections 8B.4 and 8B.23  
15 applicable to all agencies.

16 *b.* Make recommendations to the chief information  
17 officer regarding all of the following:

18 (1) Technology utility services to be implemented  
19 by the division.

20 (2) Improvements to information technology service  
21 levels and modifications to the business continuity  
22 plan for information technology operations developed by  
23 the division for agencies, and to maximize the value of  
24 information technology investments by the state.

25 (3) Technology initiatives for the executive  
26 branch.

27 *c.* Advise the division regarding rates to be  
28 charged for access to and for value-added services  
29 performed through IowAccess.

30 Sec. \_\_\_\_\_. **NEW SECTION. 8B.9 Reports required.**

31 The division shall provide all of the following  
32 reports:

33 1. An annual report of the division.

34 2. Internal service fund service business plans  
35 and financial reports as required under section 8B.13,  
36 subsection 5, paragraph "a", and an annual internal  
37 service fund expenditure report as required under  
38 section 8B.13, subsection 5, paragraph "b".

39 3. An annual report regarding total spending on  
40 technology as required under section 8B.21, subsection  
41 6.

42 4. A technology audit of the electronic  
43 transmission system as required under section 8B.33.

44 5. An annual report of expenditures from the  
45 IowAccess revolving fund as provided in section 8B.34.

46 **SUBCHAPTER II**

47 **SERVICES — PROVISION AND FUNDING**

48 Sec. \_\_\_\_\_. **NEW SECTION. 8B.11 Financing division**  
49 **services.**

50 1. The division shall establish a process by which

1 the division shall determine which services provided  
2 by the division shall be funded by an appropriation to  
3 the division and which services shall be funded by the  
4 governmental entity receiving the service.

5 2. a. For services which the division determines  
6 shall be funded by the governmental entity receiving  
7 the service, the division shall establish a process  
8 for determining whether the division shall be the sole  
9 provider of the service.

10 b. If the division determines that it shall be  
11 the sole provider of a service, the division shall  
12 establish a procedure for resolving complaints  
13 concerning the service provided and shall set rates for  
14 the service as provided in section 8B.21.

15 3. The division shall annually prepare a listing  
16 separately identifying services to be provided by the  
17 division and funded by an appropriation, services  
18 to be provided by the division and funded by the  
19 governmental entity receiving the service, and services  
20 which the division is authorized to provide but which  
21 governmental entities may provide on their own or  
22 obtain from another provider of the service.

23 Sec. \_\_\_\_\_. NEW SECTION. 8B.12 **Services to**  
24 **governmental entities and nonprofit organizations.**

25 1. The chief information officer shall enter  
26 into agreements with state agencies, and may enter  
27 into agreements with any other governmental entity  
28 or a nonprofit organization, to furnish services  
29 and facilities of the division to the applicable  
30 governmental entity or nonprofit organization. The  
31 agreement shall provide for the reimbursement to the  
32 division of the reasonable cost of the services and  
33 facilities furnished. All governmental entities  
34 of this state may enter into such agreements. For  
35 purposes of this subsection, "*nonprofit organization*"  
36 means a nonprofit entity which is exempt from federal  
37 income taxation pursuant to section 501(c)(3) of the  
38 Internal Revenue Code and which is funded in whole or  
39 in part by public funds.

40 2. This chapter does not affect any city civil  
41 service programs established under chapter 400.

42 3. The state board of regents shall not be required  
43 to obtain any service for the state board of regents or  
44 any institution under the control of the state board  
45 of regents that is provided by the division pursuant  
46 to this chapter without the consent of the state board  
47 of regents.

48 Sec. \_\_\_\_\_. NEW SECTION. 8B.13 **Division internal**  
49 **service funds.**

50 1. Activities of the division shall be accounted



1 for within the general fund of the state, except  
2 that the chief information officer may establish and  
3 maintain internal service funds in accordance with  
4 generally accepted accounting principles, as defined  
5 in section 8.57, subsection 5, for activities of the  
6 division which are primarily funded from billings to  
7 governmental entities for services rendered by the  
8 division. The establishment of an internal service  
9 fund is subject to the approval of the director of the  
10 department of management and the concurrence of the  
11 auditor of state. At least ninety days prior to the  
12 establishment of an internal service fund pursuant  
13 to this section, the chief information officer shall  
14 notify in writing the general assembly, including the  
15 legislative council, legislative fiscal committee, and  
16 the legislative services agency.

17 2. Internal service funds shall be administered by  
18 the division and shall consist of moneys collected by  
19 the division from billings issued in accordance with  
20 section 8B.15 and any other moneys obtained or accepted  
21 by the division, including but not limited to gifts,  
22 loans, donations, grants, and contributions, which are  
23 designated to support the activities of the individual  
24 internal service funds. The chief information officer  
25 may obtain loans from the innovations fund created in  
26 section 8.63 for deposit in an internal service fund  
27 established pursuant to this section to provide seed  
28 and investment capital to enhance the delivery of  
29 services provided by the division.

30 3. The proceeds of an internal service fund  
31 established pursuant to this section shall be used  
32 by the division for the operations of the division  
33 consistent with this chapter. The chief information  
34 officer may appoint the personnel necessary to ensure  
35 the efficient provision of services funded pursuant  
36 to an internal service fund established under this  
37 section. However, this usage requirement shall not  
38 limit or restrict the division from using proceeds from  
39 gifts, loans, donations, grants, and contributions  
40 in conformance with any conditions, directions,  
41 limitations, or instructions attached or related  
42 thereto.

43 4. Section 8.33 does not apply to any moneys in  
44 internal service funds established pursuant to this  
45 section. Notwithstanding section 12C.7, subsection 2,  
46 interest or earnings on moneys deposited in these funds  
47 shall be credited to these funds.

48 5. a. The chief information officer shall annually  
49 provide internal service fund service business plans  
50 and financial reports to the department of management

1 and the general assembly. The business plans may  
2 include the recommendation that a portion of unexpended  
3 net income be periodically returned to the appropriate  
4 funding source.

5     **b.** The division shall submit an annual report not  
6 later than October 1 to the members of the general  
7 assembly and the legislative services agency of the  
8 activities funded by and expenditures made from an  
9 internal service fund established pursuant to this  
10 section during the preceding fiscal year.

11     Sec. \_\_\_\_\_. NEW SECTION. **8B.14 Additional personnel.**

12     The division may employ, upon the approval of the  
13 department of management, additional personnel in  
14 excess of the number of full time equivalent positions  
15 authorized by the general assembly if such additional  
16 personnel are reasonable and necessary to perform such  
17 duties as required to meet the needs of the division  
18 to provide services to other governmental entities and  
19 as authorized by this chapter. The chief information  
20 officer shall notify in writing the department of  
21 management, the legislative fiscal committee, and the  
22 legislative services agency of any additional personnel  
23 employed pursuant to this section.

24     Sec. \_\_\_\_\_. NEW SECTION. **8B.15 Billing — credit**  
25 **card payments.**

26     1. The chief information officer may bill a  
27 governmental entity for services rendered by the  
28 division in accordance with the duties of the division  
29 as provided in this chapter. Bills may include  
30 direct, indirect, and developmental costs which have  
31 not been funded by an appropriation to the division.  
32 The division shall periodically render a billing  
33 statement to a governmental entity outlining the cost  
34 of services provided to the governmental entity. The  
35 amount indicated on the statement shall be paid by  
36 the governmental entity and amounts received by the  
37 division shall be considered repayment receipts as  
38 defined in section 8.2, and deposited into the accounts  
39 of the division.

40     2. In addition to other forms of payment, a person  
41 may pay by credit card for services provided by the  
42 division, according to rules adopted by the treasurer  
43 of state. The credit card fees to be charged shall  
44 not exceed those permitted by statute. A governmental  
45 entity may adjust its payment to reflect the costs of  
46 processing as determined by the treasurer of state.  
47 The discount charged by the credit card issuer may  
48 be included in determining the fees to be paid for  
49 completing a financial transaction under this section  
50 by using a credit card. All credit card payments

1 shall be credited to the fund used to account for the  
2 services provided.

3 Sec. \_\_\_\_\_. **NEW SECTION. 8B.16 Division debts and**  
4 **liabilities — appropriation request.**

5 If a service provided by the division and funded  
6 from an internal service fund established under  
7 section 8B.13 ceases to be provided and insufficient  
8 funds remain in the internal service fund to pay any  
9 outstanding debts and liabilities relating to that  
10 service, the chief information officer shall notify  
11 the general assembly and request that moneys be  
12 appropriated from the general fund of the state to pay  
13 such debts and liabilities.

14 **SUBCHAPTER III**

15 **INFORMATION TECHNOLOGY**

16 Sec. \_\_\_\_\_. **NEW SECTION. 8B.21 Information**  
17 **technology services — division powers and duties —**  
18 **responsibilities.**

19 1. *Powers and duties of division.* The powers and  
20 duties of the division as it relates to information  
21 technology services shall include but are not limited  
22 to all of the following:

23 a. Providing information technology to agencies and  
24 other governmental entities.

25 b. Implementing the strategic information  
26 technology plan.

27 c. Developing and implementing a business  
28 continuity plan, as the chief information officer  
29 determines is appropriate, to be used if a disruption  
30 occurs in the provision of information technology to  
31 participating agencies and other governmental entities.

32 d. Prescribing standards and adopting rules  
33 relating to information technology and procurement,  
34 including but not limited to system design and systems  
35 integration and interoperability, which shall apply  
36 to all participating agencies except as otherwise  
37 provided in this chapter. The division shall implement  
38 information technology standards as established  
39 pursuant to this chapter which are applicable to  
40 information technology procurements for participating  
41 agencies.

42 e. Developing and maintaining security policies  
43 and systems to ensure the integrity of the state's  
44 information resources and to prevent the disclosure of  
45 confidential records.

46 f. Developing and implementing effective and  
47 efficient strategies for the use and provision of  
48 information technology for participating agencies and  
49 other governmental entities.

50 g. Coordinating and managing the acquisition of

1 information technology services by participating  
2 agencies in furtherance of the purposes of this  
3 chapter. The division shall institute procedures to  
4 ensure effective and efficient compliance with the  
5 applicable standards established pursuant to this  
6 chapter.

7 *h.* Entering into contracts, leases, licensing  
8 agreements, royalty agreements, marketing agreements,  
9 memorandums of understanding, or other agreements as  
10 necessary and appropriate to administer this chapter.

11 *i.* Requesting that a participating agency provide  
12 such information as is necessary to establish and  
13 maintain an inventory of information technology used by  
14 participating agencies, and such participating agency  
15 shall provide such information to the division in a  
16 timely manner. The form and content of the information  
17 to be provided shall be determined by the division.

18 *j.* Charging reasonable fees, costs, expenses,  
19 charges, or other amounts to an agency, governmental  
20 entity, public official, or person or entity related to  
21 the provision, sale, use, or utilization of, or cost  
22 sharing with respect to, information technology and  
23 any intellectual property interests related thereto;  
24 research and development; proprietary hardware,  
25 software, and applications; and information technology  
26 architecture and design. The division may enter into  
27 nondisclosure agreements and take any other legal  
28 action reasonably necessary to secure a right to an  
29 interest in information technology development by  
30 or on behalf of the state of Iowa and to protect the  
31 state of Iowa's proprietary information technology  
32 and intellectual property interests. The provisions  
33 of chapter 23A relating to noncompetition by state  
34 agencies and political subdivisions with private  
35 enterprise shall not apply to division activities  
36 authorized under this paragraph.

37 *k.* Charging reasonable fees, costs, expenses,  
38 charges, or other amounts to an agency, governmental  
39 entity, public official, or other person or entity to  
40 or for whom information technology or other services  
41 have been provided by or on behalf of, or otherwise  
42 made available through, the division.

43 *l.* Providing, selling, leasing, licensing,  
44 transferring, or otherwise conveying or disposing of  
45 information technology, or any intellectual property  
46 or other rights with respect thereto, to agencies,  
47 governmental entities, public officials, or other  
48 persons or entities.

49 *m.* Entering into partnerships, contracts, leases,  
50 or other agreements with public and private entities

1 for the evaluation and development of information  
2 technology pilot projects.  
3 *n.* Initiating and supporting the development  
4 of electronic commerce, electronic government, and  
5 internet applications across participating agencies and  
6 in cooperation with other governmental entities. The  
7 division shall foster joint development of electronic  
8 commerce and electronic government involving the  
9 public and private sectors, develop customer surveys  
10 and citizen outreach and education programs and  
11 material, and provide for citizen input regarding the  
12 state's electronic commerce and electronic government  
13 applications.

14 *2. Responsibilities.* The responsibilities of  
15 the division as it relates to information technology  
16 services include the following:

17 *a.* Coordinate the activities of the division in  
18 promoting, integrating, and supporting information  
19 technology in all business aspects of state government.

20 *b.* Provide for server systems, including mainframe  
21 and other server operations, desktop support, and  
22 applications integration.

23 *c.* Provide applications development, support, and  
24 training, and advice and assistance in developing and  
25 supporting business applications throughout state  
26 government.

27 *3. Information technology charges.* The division  
28 shall render a statement to an agency, governmental  
29 entity, public official, or other person or entity  
30 to or for whom information technology, value added  
31 services, or other items or services have been provided  
32 by or on behalf of, or otherwise made available  
33 through, the division. Such an agency, governmental  
34 entity, public official, or other person or entity  
35 shall pay an amount indicated on such statement in a  
36 manner determined by the division.

37 *4. Dispute resolution.* If a dispute arises between  
38 the division and an agency for which the division  
39 provides or refuses to provide information technology,  
40 the dispute shall be resolved as provided in section  
41 679A.19.

42 *5. Waivers. a.* The division shall adopt rules  
43 allowing for participating agencies to seek a temporary  
44 or permanent waiver from any of the requirements  
45 of this subchapter concerning the acquisition,  
46 utilization, or provision of information technology.  
47 The rules shall provide that a waiver may be granted  
48 upon a written request by a participating agency and  
49 approval of the chief information officer. A waiver  
50 shall only be approved if the participating agency

1 shows that a waiver would be in the best interests of  
2 the state.

3     *b.* Prior to approving or denying a request for a  
4 waiver, the chief information officer shall consider  
5 all of the following:

6         (1) Whether the failure to grant a waiver would  
7 violate any state or federal law; or any published  
8 policy, standard, or requirement established by a  
9 governing body other than the department.

10        (2) Whether the failure to start a waiver would  
11 result in the duplication of existing services,  
12 resources, or support.

13        (3) Whether the waiver would obstruct the state's  
14 information technology strategic plan, enterprise  
15 architecture, security plans, or any other information  
16 technology policy, standard, or requirement.

17        (4) Whether the waiver would result in excessive  
18 expenditures or expenditures above market rates.

19        (5) The life cycle of the system or application for  
20 which the waiver is requested.

21        (6) Whether the participating agency can show that  
22 it can obtain or provide the information technology  
23 more economically than the information technology  
24 can be provided by the department. For purposes of  
25 determining if the participating agency can obtain or  
26 provide the information technology more economically,  
27 the chief information officer shall consider the  
28 impact on other participating agencies if the waiver is  
29 approved or denied.

30        (7) Whether the failure to grant a waiver would  
31 jeopardize federal funding.

32     *c.* Rules adopted pursuant to this subsection  
33 relating to a request for a waiver, at a minimum, shall  
34 provide for all of the following:

35         (1) The request shall be in writing and signed  
36 by the head of the participating agency seeking the  
37 waiver.

38         (2) The request shall include a reference to the  
39 specific policy, standard, or requirement for which the  
40 waiver is submitted.

41         (3) The request shall include a statement of  
42 facts including a description of the problem or issue  
43 prompting the request; the participating agency's  
44 preferred solution; an alternative approach to be  
45 implemented by the participating agency intended to  
46 satisfy the waived policy, standard, or requirement;  
47 the business case for the alternative approach; the  
48 economic justification for the waiver or a statement  
49 as to why the waiver is in the best interests of  
50 the state; the time period for which the waiver

1 is requested; and any other information deemed  
2 appropriate.

3 d. A participating agency may appeal the decision  
4 of the chief information officer to the director of  
5 the department of management within seven calendar  
6 days following the decision of the chief information  
7 officer. The director of the department of management,  
8 after consultation with the technology advisory  
9 council, shall respond within fourteen days following  
10 the receipt of the appeal.

11 e. The department of public defense, including both  
12 the military division and the homeland security and  
13 emergency management division, shall not be required to  
14 obtain any information technology services pursuant to  
15 this subchapter for the department of public defense  
16 or its divisions that is provided by the department of  
17 management pursuant to this chapter without the consent  
18 of the adjutant general.

19 6. *Annual report.* On an annual basis, prepare a  
20 report to the governor, the department of management,  
21 and the general assembly regarding the total spending  
22 on technology for the previous fiscal year, the total  
23 amount appropriated for the current fiscal year, and  
24 an estimate of the amount to be requested for the  
25 succeeding fiscal year for all agencies. The report  
26 shall include a five year projection of technology cost  
27 savings, an accounting of the level of technology cost  
28 savings for the current fiscal year, and a comparison  
29 of the level of technology cost savings for the current  
30 fiscal year with that of the previous fiscal year.  
31 This report shall be filed as soon as possible after  
32 the close of a fiscal year, and by no later than the  
33 second Monday of January of each year.

34 Sec. \_\_\_\_\_. **NEW SECTION. 8B.22 Digital government.**

35 1. The division is responsible for initiating and  
36 supporting the development of electronic commerce,  
37 electronic government, and internet applications across  
38 participating agencies and in cooperation with other  
39 governmental entities.

40 2. In developing the concept of digital  
41 government, the division shall do all of the following:

42 a. Establish standards, consistent with other state  
43 law, for the implementation of electronic commerce,  
44 including standards for electronic signatures,  
45 electronic currency, and other items associated with  
46 electronic commerce.

47 b. Establish guidelines for the appearance and  
48 functioning of applications.

49 c. Establish standards for the integration of  
50 electronic data across state agencies.

1     d. Foster joint development of electronic commerce  
2 and electronic government involving the public and  
3 private sectors.

4     e. Develop customer surveys and citizen outreach  
5 and education programs and material, and provide for  
6 citizen input regarding the state's electronic commerce  
7 and electronic government applications.

8     f. Assist participating agencies in converting  
9 printed government materials to electronic materials  
10 which can be accessed through an internet searchable  
11 database.

12    g. Encourage participating agencies to utilize  
13 a print on demand strategy to reduce publication  
14 overruns, excessive inventory, and obsolete printed  
15 materials.

16    Sec. \_\_\_\_\_. NEW SECTION.   **8B.23 Information**  
17 **technology standards.**

18    1. The division, after consultation with the  
19 council, shall develop and adopt information technology  
20 standards applicable to the procurement of information  
21 technology by all participating agencies. Such  
22 standards, unless waived by the division, shall  
23 apply to all information technology procurements for  
24 participating agencies.

25    2. The office of the governor or the office of  
26 an elective constitutional or statutory officer  
27 shall consult with the division prior to procuring  
28 information technology and consider the information  
29 technology standards adopted by the division, and  
30 provide a written report to the division relating to  
31 the office's decision regarding such acquisitions.

32    Sec. \_\_\_\_\_. NEW SECTION.   **8B.24 Procurement of**  
33 **information technology.**

34    1. Standards established by the division, unless  
35 waived by the division, shall apply to all information  
36 technology procurements for participating agencies.

37    2. The division shall institute procedures to  
38 ensure effective and efficient compliance with  
39 standards established by the division.

40    3. The division shall develop policies and  
41 procedures that apply to all information technology  
42 goods and services acquisitions, and shall ensure the  
43 compliance of all participating agencies. The division  
44 shall also be the sole provider of infrastructure  
45 services for participating agencies.

46    4. The division, by rule, may implement a  
47 prequalification procedure for contractors with which  
48 the division has entered or intends to enter into  
49 agreements regarding the procurement of information  
50 technology.



1       5. Notwithstanding the provisions governing  
2 purchasing as provided in chapter 8A, subchapter III,  
3 the division may procure information technology as  
4 provided in this section. The division may cooperate  
5 with other governmental entities in the procurement  
6 of information technology in an effort to make such  
7 procurements in a cost-effective, efficient manner as  
8 provided in this section. The division, as deemed  
9 appropriate and cost-effective, may procure information  
10 technology using any of the following methods:

11       *a. Cooperative procurement agreement.* The division  
12 may enter into a cooperative procurement agreement with  
13 another governmental entity relating to the procurement  
14 of information technology, whether such information  
15 technology is for the use of the division or other  
16 governmental entities. The cooperative procurement  
17 agreement shall clearly specify the purpose of the  
18 agreement and the method by which such purpose will be  
19 accomplished. Any power exercised under such agreement  
20 shall not exceed the power granted to any party to the  
21 agreement.

22       *b. Negotiated contract.* The division may enter into  
23 an agreement for the purchase of information technology  
24 if any of the following applies:

25       (1) The contract price, terms, and conditions are  
26 pursuant to the current federal supply contract, and  
27 the purchase order adequately identifies the federal  
28 supply contract under which the procurement is to be  
29 made.

30       (2) The contract price, terms, and conditions  
31 are no less favorable than the contractor's current  
32 federal supply contract price, terms, and conditions;  
33 the contractor has indicated in writing a willingness  
34 to extend such price, terms, and conditions to the  
35 division; and the purchase order adequately identifies  
36 the contract relied upon.

37       (3) The contract is with a vendor which has a  
38 current exclusive or nonexclusive price agreement  
39 with the state for the information technology to be  
40 procured, and such information technology meets the  
41 same standards and specifications as the items to be  
42 procured and both of the following apply:

43       (a) The quantity purchased does not exceed the  
44 quantity which may be purchased under the applicable  
45 price agreement.

46       (b) The purchase order adequately identifies the  
47 price agreement relied upon.

48       *c. Contracts let by another governmental*  
49 *entity.* The division, on its own behalf or on the  
50 behalf of another participating agency or governmental

1 entity, may procure information technology under a  
2 contract let by another agency or other governmental  
3 entity, or approve such procurement in the same manner  
4 by a participating agency or governmental entity.

5 *d. Reverse auction.*

6 (1) The division may enter into an agreement for  
7 the purchase of information technology utilizing a  
8 reverse auction process. Such process shall result in  
9 the purchase of information technology from the vendor  
10 submitting the lowest responsible bid amount for the  
11 information technology to be acquired. The division,  
12 in establishing a reverse auction process, shall do all  
13 of the following:

14 (a) Determine the specifications and requirements  
15 of the information technology to be acquired.

16 (b) Identify and provide notice to potential  
17 vendors concerning the proposed acquisition.

18 (c) Establish prequalification requirements to be  
19 met by a vendor to be eligible to participate in the  
20 reverse auction.

21 (d) Conduct the reverse auction in a manner as  
22 deemed appropriate by the division and consistent with  
23 rules adopted by the division.

24 (2) Prior to conducting a reverse auction, the  
25 division shall establish a threshold amount which shall  
26 be the maximum amount which the division is willing to  
27 pay for the information technology to be acquired.

28 (3) The division shall enter into an agreement  
29 with a vendor who is the lowest responsible bidder  
30 which meets the specifications or description of the  
31 information technology to be procured, or the division  
32 may reject all bids and begin the process again. In  
33 determining the lowest responsible bidder, the division  
34 may consider various factors including but not limited  
35 to the past performance of the vendor relative to  
36 quality of product or service, the past experience of  
37 the division in relation to the product or service, the  
38 relative quality of products or services, the proposed  
39 terms of delivery, and the best interest of the state.

40 *e. Competitive bidding.* The division may enter  
41 into an agreement for the procurement or acquisition of  
42 information technology in the same manner as provided  
43 under chapter 8A, subchapter III, for the purchasing  
44 of service.

45 *f. Other agreement.* In addition to the competitive  
46 bidding procedure provided for under paragraph "e",  
47 the division may enter into an agreement for the  
48 purchase, disposal, or other disposition of information  
49 technology in the same manner and subject to the same  
50 limitations as otherwise provided in this chapter. The

1 division, by rule, shall provide for such procedures.

2 6. The division shall adopt rules pursuant to  
3 chapter 17A to implement the procurement methods and  
4 procedures provided for in subsections 2 through 5.

#### 5 SUBCHAPTER IV

#### 6 IOWACCESS

7 Sec. \_\_\_\_ . NEW SECTION. **8B.31 IowAccess — division**  
8 **duties and responsibilities.**

9 1. *IowAccess.* The division shall establish  
10 IowAccess as a service to the citizens of this state  
11 that is the gateway for one-stop electronic access  
12 to government information and transactions, whether  
13 federal, state, or local. Except as provided in  
14 this section, IowAccess shall be a state-funded  
15 service providing access to government information and  
16 transactions. The division, in establishing the fees  
17 for value-added services, shall consider the reasonable  
18 cost of creating and organizing such government  
19 information through IowAccess.

20 2. *Duties.* The division shall do all of the  
21 following:

22 a. Establish rates to be charged for access to and  
23 for value-added services performed through IowAccess.

24 b. Approve and establish the priority of projects  
25 associated with IowAccess. The determination may also  
26 include requirements concerning funding for a project  
27 proposed by a political subdivision of the state or  
28 an association, the membership of which is comprised  
29 solely of political subdivisions of the state. Prior  
30 to approving a project proposed by a political  
31 subdivision, the division shall verify that all of the  
32 following conditions are met:

33 (1) The proposed project provides a benefit to the  
34 state.

35 (2) The proposed project, once completed, can be  
36 shared with and used by other political subdivisions of  
37 the state, as appropriate.

38 (3) The state retains ownership of any final  
39 product or is granted a permanent license to the use  
40 of the product.

41 c. Establish expected outcomes and effects of the  
42 use of IowAccess and determine the manner in which such  
43 outcomes are to be measured and evaluated.

44 d. Establish the IowAccess total budget request and  
45 ensure that such request reflects the priorities and  
46 goals of IowAccess as established by the division.

47 e. Advocate for access to government information  
48 and services through IowAccess and for data privacy  
49 protection, information ethics, accuracy, and security  
50 in IowAccess programs and services.

1 f. Receive status and operations reports associated  
2 with IowAccess.

3 3. *Data purchasing.* This section shall not be  
4 construed to impair the right of a person to contract  
5 to purchase information or data from the Iowa court  
6 information system or any other governmental entity.  
7 This section shall not be construed to affect a data  
8 purchase agreement or contract in existence on April  
9 25, 2000.

10 Sec. \_\_\_\_ NEW SECTION. **8B.32 Financial**  
11 **transactions.**

12 1. Moneys paid to a participating agency from  
13 persons who complete an electronic financial  
14 transaction with the agency by accessing IowAccess  
15 shall be transferred to the treasurer of state for  
16 deposit in the general fund of the state, unless the  
17 disposition of the moneys is specifically provided for  
18 under other law. The moneys may include all of the  
19 following:

20 a. Fees required to obtain an electronic public  
21 record as provided in section 22.3A.

22 b. Fees required to process an application or file  
23 a document, including but not limited to fees required  
24 to obtain a license issued by a licensing authority.

25 c. Moneys owed to a governmental entity by a  
26 person accessing IowAccess in order to satisfy a  
27 liability arising from the operation of law, including  
28 the payment of assessments, taxes, fines, and civil  
29 penalties.

30 2. Moneys transferred using IowAccess may include  
31 amounts owed by a governmental entity to a person  
32 accessing IowAccess in order to satisfy a liability of  
33 the governmental entity. The moneys may include the  
34 payment of tax refunds, and the disbursement of support  
35 payments as defined in section 252D.16 or 598.1 as  
36 required for orders issued pursuant to section 252B.14.

37 3. In addition to other forms of payment, credit  
38 cards shall be accepted in payment for moneys owed to  
39 or fees imposed by a governmental entity in the same  
40 manner as provided in section 8B.15.

41 Sec. \_\_\_\_ NEW SECTION. **8B.33 Audits required.**

42 A technology audit of the electronic transmission  
43 system by which government records are transmitted  
44 electronically to the public shall be conducted not  
45 less than once annually for the purpose of determining  
46 that government records and other electronic data are  
47 not misappropriated or misused by the division or a  
48 contractor of the division.

49 Sec. \_\_\_\_ NEW SECTION. **8B.34 IowAccess revolving**  
50 **fund.**

1       1. An IowaAccess revolving fund is created in  
2 the state treasury. The revolving fund shall be  
3 administered by the division and shall consist of  
4 moneys collected by the division as fees, moneys  
5 appropriated by the general assembly, and any other  
6 moneys obtained or accepted by the division for  
7 deposit in the revolving fund. The proceeds of the  
8 revolving fund are appropriated to and shall be used  
9 by the division to maintain, develop, operate, and  
10 expand IowaAccess consistent with this chapter, and for  
11 the support of activities of the technology advisory  
12 council pursuant to section 8B.8.

13       2. The division shall submit an annual report  
14 not later than January 31 to the members of the  
15 general assembly and the legislative services agency  
16 of the activities funded by and expenditures made  
17 from the revolving fund during the preceding fiscal  
18 year. Section 8.33 does not apply to any moneys in  
19 the revolving fund, and, notwithstanding section  
20 12C.7, subsection 2, earnings or interest on moneys  
21 deposited in the revolving fund shall be credited to  
22 the revolving fund.

23       Sec. \_\_\_\_\_. Section 12C.1, subsection 2, paragraph  
24 e, subparagraph (6), Code 2009, is amended to read as  
25 follows:

26       (6) Moneys placed in a depository for the purpose  
27 of completing an electronic financial transaction  
28 pursuant to section ~~8A.222~~ 8B.32 or 331.427.

29       Sec. \_\_\_\_\_. Section 12C.4, Code 2009, is amended to  
30 read as follows:

31       **12C.4 Location of depositories.**

32       Deposits by the treasurer of state shall be in  
33 depositories located in this state; by a county  
34 officer or county public hospital officer or merged  
35 area hospital officer, in depositories located in the  
36 county or in an adjoining county within this state;  
37 by a memorial hospital treasurer, in a depository  
38 located within this state which shall be selected by  
39 the memorial hospital treasurer and approved by the  
40 memorial hospital commission; by a city treasurer or  
41 other city financial officer, in depositories located  
42 in the county in which the city is located or in an  
43 adjoining county, but if there is no depository in the  
44 county in which the city is located or in an adjoining  
45 county then in any other depository located in this  
46 state which shall be selected as a depository by the  
47 city council; by a school treasurer or by a school  
48 secretary in a depository within this state which  
49 shall be selected by the board of directors or the  
50 trustees of the school district; by a township clerk

1 in a depository located within this state which shall  
2 be selected by the township clerk and approved by the  
3 trustees of the township. However, deposits may be  
4 made in depositories outside of Iowa for the purpose of  
5 paying principal and interest on bonded indebtedness  
6 of any municipality when the deposit is made not  
7 more than ten days before the date the principal  
8 or interest becomes due. Further, the treasurer of  
9 state may maintain an account or accounts outside the  
10 state of Iowa for the purpose of providing custodial  
11 services for the state and state retirement fund  
12 accounts. Deposits made for the purpose of completing  
13 an electronic financial transaction pursuant to section  
14 ~~8A.222~~ 8B.32 or 331.427 may be made in any depository  
15 located in this state.

16 Sec. \_\_\_\_\_. Section 23A.2, subsection 10, paragraph  
17 o, Code Supplement 2009, is amended to read as follows:

18 o. The performance of an activity authorized  
19 pursuant to section ~~8A.202~~ 8B.21, subsection 2 1,  
20 paragraph "j".

21 Sec. \_\_\_\_\_. REPEAL. Sections 8A.201, 8A.202, 8A.203,  
22 8A.204, 8A.205, 8A.206, 8A.207, 8A.221, 8A.222, and  
23 8A.223, Code 2009, are repealed.

24 Sec. \_\_\_\_\_. REPEAL. Section 8A.224, Code Supplement  
25 2009, is repealed.>

26 \_\_\_\_\_. Page 9, line 35, by striking <DEPARTMENT OF  
27 ADMINISTRATIVE SERVICES>

28 \_\_\_\_\_. Page 10, line 1, after <TECHNOLOGY> by  
29 inserting <DIVISION>

30 \_\_\_\_\_. Page 10, line 2, by striking <department of  
31 administrative services> and inserting <information  
32 technology division of the department of management>

33 \_\_\_\_\_. Page 10, line 13, by striking <department> and  
34 inserting <information technology division>

35 \_\_\_\_\_. Page 35, line 4, by striking <2011 2016> and  
36 inserting <2011>

37 \_\_\_\_\_. Page 35, by striking lines 11 through 20.>

38 2. Page 2, by striking lines 1 through 3.

39 3. Page 2, line 5, by striking <(ii) The> and  
40 inserting <(e) (1) Beginning July 1, 2011, the>

41 4. Page 2, line 9, after <board.> by inserting  
42 <In applying for a waiver, the director shall provide  
43 detailed documentation to the board describing the  
44 efforts that the executive branch agency has made in  
45 attempting to meet the applicable target aggregate  
46 ratio provided in this paragraph "g".>

47 5. Page 2, line 16, after <employees.> by inserting  
48 <However, if a department represented on the review  
49 board seeks a waiver, the member representing the  
50 department shall not participate in the decision on

1 whether to grant a waiver for that department.>  
2 6. Page 2, after line 16 by inserting:  
3 <(2) Prior to determining whether to grant a  
4 waiver, the review board shall make an initial  
5 determination of whether the executive branch agency  
6 has provided sufficient information to conduct a  
7 review. If not, the review board shall deny the  
8 request and notify the executive branch agency of the  
9 information needed to consider the request for waiver.  
10 If a waiver is granted, the review board shall limit  
11 the waiver to only those operations within an executive  
12 branch agency in which adequate justification for  
13 granting a waiver has been established.>  
14 7. Page 2, line 18, by striking <(d)> and inserting  
15 <(f)>  
16 8. Page 2, line 20, by striking <(e)> and inserting  
17 <(g)>  
18 9. Page 2, after line 20 by inserting:  
19 <\_\_. Page 36, after line 10 by inserting:  
20 <(h) The policy shall provide that in calculating  
21 the span of control ratio for an executive branch  
22 agency, unfunded full-time equivalent positions shall  
23 not be utilized.>>  
24 10. Page 2, line 22, by striking <(f)> and  
25 inserting <(i)>  
26 11. Page 2, after line 22 by inserting:  
27 <\_\_. Page 36, line 14, by striking <2017> and  
28 inserting <2012>>  
29 12. Page 2, line 24, by striking <(g)> and  
30 inserting <(j)>  
31 13. Page 2, after line 24 by inserting:  
32 <\_\_. Page 38, line 18, after <services> by  
33 inserting <, the chief information officer of the  
34 state,>  
35 \_\_\_\_\_. Page 38, line 19, after <agencies> by  
36 inserting <authorized to purchase goods and services>  
37 \_\_\_\_\_. Page 38, line 29, after <agencies> by  
38 inserting <authorized to purchase goods and services>  
39 \_\_\_\_\_. Page 39, line 10, after <agency> by inserting  
40 <authorized to purchase goods and services>  
41 \_\_\_\_\_. Page 39, line 22, after <improvements> by  
42 inserting <, and shall seek input from the department  
43 of administrative services and the chief information  
44 officer of the state regarding specific areas of  
45 potential cooperation between the institutions  
46 under the control of the board and the department of  
47 administrative services>  
48 \_\_\_\_\_. Page 39, line 26, after <agency> by inserting  
49 <authorized to purchase goods and services>  
50 \_\_\_\_\_. Page 39, line 29, by striking <July 1,> and

1 inserting <July 1>>  
2 14. Page 3, line 13, by striking <at a  
3 micro-distillery> and inserting <on the licensed  
4 premises of the micro-distillery where fermented,  
5 distilled, or matured>  
6 15. Page 3, line 39, by striking <prior to sale>  
7 and inserting <as a part of a micro-distillery tour>  
8 16. Page 3, line 42, by striking <made,> and  
9 inserting <fermented, distilled, or matured,>  
10 17. Page 4, after line 7 by inserting:  
11 <8. Micro-distilled spirits purchased at a  
12 micro-distillery shall not be consumed within three  
13 hundred feet of a micro-distillery or on any property  
14 owned, operated, or controlled by a micro-distillery.>  
15 18. Page 5, line 11, after <sold> by inserting <by  
16 the charity beer and wine auction permittee>  
17 19. Page 6, line 15, by striking <ten> and  
18 inserting <twelve>  
19 20. Page 6, after line 44 by inserting:  
20 <Sec. \_\_\_\_\_. Section 123.125, Code 2009, is amended  
21 to read as follows:  
22 **123.125 Issuance of permits.**  
23 The administrator shall issue class "A", special  
24 class "A", class "AA", special class "AA", class "B",  
25 and class "C" beer permits and may suspend or revoke  
26 permits for cause as provided in this chapter.  
27 Sec. \_\_\_\_\_. Section 123.127, subsection 1, unnumbered  
28 paragraph 1, Code Supplement 2009, is amended to read  
29 as follows:  
30 A class "A" or class "AA" permit shall be issued by  
31 the administrator to any person who:  
32 Sec. \_\_\_\_\_. Section 123.127, subsection 2, Code  
33 Supplement 2009, is amended to read as follows:  
34 2. An applicant for a special class "A" or  
35 special class "AA" permit shall comply with the  
36 requirements for a class "A" or class "AA" permit, as  
37 applicable, and shall also state on the application  
38 that the applicant holds or has applied for a class "C"  
39 liquor control license or class "B" beer permit.>  
40 21. By striking page 7, line 42, through page 8,  
41 line 9.  
42 22. By striking page 8, line 22, through page 9,  
43 line 6.  
44 23. Page 10, by striking lines 11 through 20 and  
45 inserting:  
46 <4. Shipment of wine pursuant to this subsection>  
47 24. Page 11, by striking lines 7 through 11.  
48 25. Page 11, by striking lines 18 through 22.  
49 26. By striking page 11, line 43, through page 17,  
50 line 18, and inserting <line 15.>



1 27. By striking page 20, line 4, through page 29,  
2 line 21, and inserting:  
3 <Sec. \_\_\_\_\_. NEW SECTION. 685.1 Definitions.  
4 1. "*Claim*" means any request or demand, whether  
5 pursuant to a contract or otherwise, for money or  
6 property and whether the state has title to the  
7 money or property, which is presented to an officer,  
8 employee, agent, or other representative of the  
9 state or to a contractor, grantee, or other person  
10 if the money or property is to be spent or used on  
11 the state's behalf or to advance a state program or  
12 interest, and if the state provides any portion of  
13 the money or property which is requested or demanded,  
14 or if the state will reimburse directly or indirectly  
15 such contractor, grantee, or other person for any  
16 portion of the money or property which is requested  
17 or demanded. "*Claim*" does not include any requests or  
18 demands for money or property that the state has paid  
19 to an individual as compensation for state employment  
20 or as an income subsidy with no restrictions on that  
21 individual's use of the money or property.  
22 2. "*Custodian*" means the custodian, or any deputy  
23 custodian, designated by the attorney general under  
24 section 685.6.  
25 3. "*Documentary material*" includes the original  
26 or any copy of any book, record, report, memorandum,  
27 paper, communication, tabulation, chart, or other  
28 document, or data compilations stored in or accessible  
29 through computer or other information retrieval  
30 systems, together with instructions and all other  
31 materials necessary to use or interpret such data  
32 compilations, and any product of discovery.  
33 4. "*False claims law*" means this chapter.  
34 5. "*False claims law investigation*" means any  
35 inquiry conducted by a false claims law investigator  
36 for the purpose of ascertaining whether any person is  
37 or has been engaged in any violation of a false claims  
38 law.  
39 6. "*False claims law investigator*" means any  
40 attorney or investigator employed by the department  
41 of justice who is charged with the duty of enforcing  
42 or carrying into effect any false claims law, or  
43 any officer or employee of the state acting under  
44 the direction and supervision of such attorney or  
45 investigator in connection with a false claims law  
46 investigation.  
47 7. a. "*Knowing*" or "*knowingly*" means that a person  
48 with respect to information, does any of the following:  
49 (1) Has actual knowledge of the information.  
50 (2) Acts in deliberate ignorance of the truth or

1 falsity of the information.

2 (3) Acts in reckless disregard of the truth or  
3 falsity of the information.

4 b. "*Knowing*" or "*knowingly*" does not require proof  
5 of specific intent to defraud.

6 8. "*Material*" means having a natural tendency to  
7 influence, or be capable of influencing, the payment or  
8 receipt of money or property.

9 9. "*Obligation*" means an established duty, whether  
10 or not fixed, arising from an express or implied  
11 contractual, grantor-grantee, or licensor-licensee  
12 relationship, from a fee-based or similar relationship,  
13 from statute or regulation, or from the retention of  
14 any overpayment.

15 10. "*Official use*" means any use that is consistent  
16 with the law, and the regulations and policies of the  
17 department of justice, including use, in connection  
18 with internal department of justice memoranda and  
19 reports; communications between the department of  
20 justice and a federal, state, or local government  
21 agency or a contractor of a federal, state, or local  
22 government agency, undertaken in furtherance of a  
23 department of justice investigation or prosecution of  
24 a case; interviews of any qui tam plaintiff or other  
25 witness; oral examinations; depositions; preparation  
26 for and response to civil discovery requests;  
27 introduction into the record of a case or proceeding;  
28 applications, motions, memoranda and briefs submitted  
29 to a court or other tribunal; and communications with  
30 government investigators, auditors, consultants and  
31 experts, the counsel of other parties, and arbitrators  
32 and mediators, concerning an investigation, case, or  
33 proceeding.

34 11. "*Original source*" means an individual who has  
35 direct and independent knowledge of the information on  
36 which the allegations are based and has voluntarily  
37 provided the information to the state before filing  
38 an action under section 685.3 which is based on the  
39 information.

40 12. "*Person*" means any natural person, partnership,  
41 corporation, association, or other legal entity,  
42 including any state or political subdivision of the  
43 state.

44 13. "*Product of discovery*" includes all of the  
45 following:

46 a. The original or duplicate of any deposition,  
47 interrogatory, document, thing, result of the  
48 inspection of land or other property, examination, or  
49 admission, which is obtained by any method of discovery  
50 in any judicial or administrative proceeding of an

1 adversarial nature.  
2     *b.* Any digest, analysis, selection, compilation, or  
3 derivation of any item listed in paragraph "*a*".  
4     *c.* Any index or other manner of access to any item  
5 listed in paragraph "*a*".  
6     14. "*Qui tam plaintiff*"  
7 means a private plaintiff who  
8 brings an action under this chapter on behalf of the  
9 state.  
10     Sec. \_\_\_\_\_. NEW SECTION. 685.2 Acts subjecting  
11 person to treble damages, costs, and civil penalties —  
12 exceptions.  
13     1. A person who commits any of the following acts  
14 is liable to the state for a civil penalty of not  
15 less than five thousand dollars and not more than  
16 ten thousand dollars, plus three times the amount of  
17 damages which the state sustains because of the act of  
18 that person:  
19     *a.* Knowingly presents, or causes to be presented, a  
20 false or fraudulent claim for payment or approval.  
21     *b.* Knowingly makes, uses, or causes to be made or  
22 used, a false record or statement material to a false  
23 or fraudulent claim.  
24     *c.* Conspires to commit a violation of paragraph  
25 "*a*", "*b*", "*d*", "*e*", "*f*", or "*g*".  
26     *d.* Has possession, custody, or control of property  
27 or money used, or to be used, by the state and  
28 knowingly delivers, or causes to be delivered, less  
29 than all of that money or property.  
30     *e.* Is authorized to make or deliver a document  
31 certifying receipt of property used, or to be used, by  
32 the state and, intending to defraud the state, makes or  
33 delivers the receipt without completely knowing that  
34 the information on the receipt is true.  
35     *f.* Knowingly buys, or receives as a pledge of an  
36 obligation or debt, public property from an officer or  
37 employee of the state, or a member of the Iowa national  
38 guard, who lawfully may not sell or pledge property.  
39     *g.* Knowingly makes, uses, or causes to be made  
40 or used, a false record or statement material to an  
41 obligation to pay or transmit money or property to  
42 the state, or knowingly conceals or knowingly and  
43 improperly avoids or decreases an obligation to pay or  
44 transmit money or property to the state.  
45     2. Notwithstanding subsection 1, the court may  
46 assess not less than two times the amount of damages  
47 which the state sustains because of the act of the  
48 person described in subsection 1, if the court finds  
49 all of the following:  
50     *a.* The person committing the violation furnished

50 officials of the state responsible for investigating  
1 false claims violations with all information known to  
2 such person about the violation within thirty days  
3 after the date on which the person first obtained the  
4 information.

5     **b.** The person fully cooperated with the state  
6 investigation of such violation.

7     **c.** At the time the person furnished the state  
8 with the information about the violation, a criminal  
9 prosecution, civil action, or administrative action  
10 had not commenced under this chapter with respect to  
11 such violation, and the person did not have actual  
12 knowledge of the existence of an investigation into  
13 such violation.

14     3. A person violating this section shall also be  
15 liable to the state for the costs of a civil action  
16 brought to recover any such penalty or damages.

17     4. Any information furnished pursuant to subsection  
18 2 is deemed confidential information exempt from  
19 disclosure pursuant to chapter 22.

20     5. This section shall not apply to claims, records,  
21 or statements made under Tit. X relating to state  
22 revenue and taxation.

23     Sec. \_\_\_\_ . **NEW SECTION. 685.3 Investigations and**  
24 **prosecutions — powers of prosecuting authority — civil**  
25 **actions by individuals as qui tam plaintiffs and as**  
26 **private citizens — jurisdiction of courts.**

27     1. The attorney general shall diligently  
28 investigate a violation under section 685.2. If the  
29 attorney general finds that a person has violated or is  
30 violating section 685.2, the attorney general may bring  
31 a civil action under this section against that person.

32     2. **a.** A person may bring a civil action for a  
33 violation of this chapter for the person and for  
34 the state, in the name of the state. The person  
35 bringing the action shall be referred to as the qui tam  
36 plaintiff. Once filed, the action may be dismissed  
37 only if the court and the attorney general provide  
38 written consent to the dismissal and the reasons for  
39 such consent.

40     **b.** A copy of the complaint and written disclosure  
41 of substantially all material evidence and information  
42 the person possesses shall be served on the attorney  
43 general pursuant to the Iowa rules of civil procedure.  
44 The complaint shall also be filed in camera, shall  
45 remain under seal for at least sixty days, and shall  
46 not be served on the defendant until the court so  
47 orders. The state may elect to intervene and proceed  
48 with the action within sixty days after the state  
49 receives both the complaint and the material evidence

50 and the information.

1     c. The state may, for good cause shown, move the  
2 court for extensions of the time during which the  
3 complaint remains under seal under paragraph "b".  
4 Any such motions may be supported by affidavits or  
5 other submissions in camera. The defendant shall not  
6 be required to respond to any complaint filed under  
7 this section until twenty days after the complaint is  
8 unsealed and served upon the defendant pursuant to rule  
9 1.302 of the Iowa rules of civil procedure.

10    d. Before the expiration of the sixty-day period or  
11 any extensions obtained under paragraph "c", the state  
12 shall do one of the following:

13       (1) Proceed with the action, in which case the  
14 action shall be conducted by the state.

15       (2) Notify the court that the state declines  
16 to take over the action, in which case the qui tam  
17 plaintiff shall have the right to conduct the action.

18    e. When a person brings an action under this  
19 section, no person other than the state may intervene  
20 or bring a related action based on the facts underlying  
21 the pending action.

22    3. a. If the state proceeds with the action,  
23 the state shall have the primary responsibility for  
24 prosecuting the action, and shall not be bound by an  
25 act of the qui tam plaintiff. Such qui tam plaintiff  
26 shall have the right to continue as a party to the  
27 action, subject to the limitations specified in  
28 paragraph "b".

29       b. (1) The state may move to dismiss the action,  
30 notwithstanding the objections of the qui tam plaintiff  
31 if the qui tam plaintiff has been notified by the state  
32 of the filing of the motion and the court has provided  
33 the qui tam plaintiff with an opportunity for a hearing  
34 on the motion.

35       (2) The state may settle the action with the  
36 defendant notwithstanding the objections of the qui tam  
37 plaintiff if the court determines, after a hearing,  
38 that the proposed settlement is fair, adequate, and  
39 reasonable under all of the circumstances. Upon a  
40 showing of good cause, such hearing may be held in  
41 camera.

42       (3) Upon a showing by the state that unrestricted  
43 participation during the course of the litigation by  
44 the qui tam plaintiff would interfere with or unduly  
45 delay the state's prosecution of the case, or would be  
46 repetitious, irrelevant, or for purposes of harassment,  
47 the court may, in its discretion, impose limitations on  
48 the qui tam plaintiff's participation, including but  
49 not limited to any of the following:

50 (a) Limiting the number of witnesses the qui tam  
1 plaintiff may call.  
2 (b) Limiting the length of the testimony of such  
3 witnesses.  
4 (c) Limiting the qui tam plaintiff's  
5 cross-examination of witnesses.  
6 (d) Otherwise limiting the participation by the qui  
7 tam plaintiff in the litigation.  
8 (4) Upon a showing by the defendant that  
9 unrestricted participation during the course of the  
10 litigation by the qui tam plaintiff would be for  
11 purposes of harassment or would cause the defendant  
12 undue burden or unnecessary expense, the court may  
13 limit the participation by the qui tam plaintiff in the  
14 litigation.  
15 c. If the state elects not to proceed with the  
16 action, the qui tam plaintiff shall have the right to  
17 conduct the action. If the state so requests, the  
18 state shall be served with copies of all pleadings  
19 filed in the action and shall be supplied with copies  
20 of all deposition transcripts at the state's expense.  
21 When a qui tam plaintiff proceeds with the action, the  
22 court, without limiting the status and rights of the  
23 qui tam plaintiff, may permit the state to intervene at  
24 a later date upon a showing of good cause.  
25 d. Whether or not the state proceeds with the  
26 action, upon a showing by the state that certain  
27 actions of discovery by the qui tam plaintiff would  
28 interfere with the state's investigation or prosecution  
29 of a criminal or civil matter arising out of the  
30 same facts, the court may stay such discovery for a  
31 period of not more than sixty days. Such a showing  
32 shall be conducted in camera. The court may extend  
33 the sixty-day period upon a further showing in camera  
34 that the state has pursued the criminal or civil  
35 investigation or proceedings with reasonable diligence  
36 and any proposed discovery in the civil action  
37 will interfere with the ongoing criminal or civil  
38 investigation or proceedings.  
39 e. Notwithstanding subsection 2, the state  
40 may elect to pursue the state's claim through any  
41 alternate remedy available to the state, including any  
42 administrative proceeding to determine a civil penalty.  
43 If any such alternate remedy is pursued in another  
44 proceeding, the qui tam plaintiff shall have the same  
45 rights in such proceeding as such qui tam plaintiff  
46 would have had if the action had continued under this  
47 section. Any finding of fact or conclusion of law  
48 made in such other proceeding that has become final,  
49 shall be conclusive as to all such parties to an action

50 under this section. For purposes of this paragraph, a  
1 finding or conclusion is final if it has been finally  
2 determined on appeal to the appropriate court of the  
3 state, if all time for filing such an appeal with  
4 respect to the finding or conclusion has expired, or if  
5 the finding or conclusion is not subject to judicial  
6 review.

7 4. a. (1) If the state proceeds with an action  
8 brought by a qui tam plaintiff under subsection 2, the  
9 qui tam plaintiff shall, subject to subparagraph (2),  
10 receive at least fifteen percent but not more than  
11 twenty-five percent of the proceeds of the action or  
12 settlement of the claim, depending upon the extent to  
13 which the qui tam plaintiff substantially contributed  
14 to the prosecution of the action.

15 (2) If the action is one which the court finds  
16 to be based primarily on disclosures of specific  
17 information, other than information provided by the qui  
18 tam plaintiff, relating to allegations or transactions  
19 in a criminal, civil, or administrative hearing, or  
20 in a legislative, administrative or state auditor  
21 report, hearing, audit, or investigation, or from  
22 the news media, the court may award an amount the  
23 court considers appropriate, but in no case more than  
24 ten percent of the proceeds, taking into account the  
25 significance of the information and the role of the qui  
26 tam plaintiff in advancing the case to litigation.

27 (3) Any payment to a qui tam plaintiff under  
28 subparagraph (1) or (2) shall be made from the  
29 proceeds. Any such qui tam plaintiff shall also  
30 receive an amount for reasonable expenses which the  
31 appropriate court finds to have been necessarily  
32 incurred, plus reasonable attorney fees and costs. All  
33 such expenses, fees, and costs shall be awarded against  
34 the defendant.

35 b. If the state does not proceed with an action  
36 under this section, the qui tam plaintiff or person  
37 settling the claim shall receive an amount which the  
38 court decides is reasonable for collecting the civil  
39 penalty and damages. The amount shall be not less than  
40 twenty-five percent and not more than thirty percent  
41 of the proceeds of the action or settlement and shall  
42 be paid out of such proceeds. Such qui tam plaintiff  
43 or person shall also receive an amount for reasonable  
44 expenses which the court finds to have been necessarily  
45 incurred, plus reasonable attorney fees and costs. All  
46 such expenses, fees, and costs shall be awarded against  
47 the defendant.

48 c. Whether or not the state proceeds with the  
49 action, if the court finds that the action was brought

50 by a qui tam plaintiff who planned and initiated  
1 the violation of section 685.2 upon which the action  
2 was brought, the court may, to the extent the court  
3 considers appropriate, reduce the share of the proceeds  
4 of the action which the qui tam plaintiff would  
5 otherwise receive under paragraph "a" or "b", taking  
6 into account the role of that qui tam plaintiff in  
7 advancing the case to litigation and any relevant  
8 circumstances pertaining to the violation. If the qui  
9 tam plaintiff is convicted of criminal conduct arising  
10 from the qui tam plaintiff's role in the violation of  
11 section 685.2, the qui tam plaintiff shall be dismissed  
12 from the civil action and shall not receive any share  
13 of the proceeds of the action. Such dismissal shall  
14 not prejudice the right of the state to continue the  
15 action represented by the attorney general.

16 d. If the state does not proceed with the action  
17 and the qui tam plaintiff conducts the action, the  
18 court may award to the defendant reasonable attorney  
19 fees and expenses if the defendant prevails in the  
20 action and the court finds that the claim of the qui  
21 tam plaintiff was clearly frivolous, clearly vexatious,  
22 or brought primarily for purposes of harassment.

23 5. a. A court shall not have jurisdiction over an  
24 action brought by a former or present member of the  
25 Iowa national guard under this chapter against a member  
26 of the Iowa national guard arising out of such person's  
27 services in the Iowa national guard.

28 b. A qui tam plaintiff shall not bring an action  
29 under subsection 2 which is based upon allegations or  
30 transactions which are the subject of a civil suit or  
31 an administrative civil penalty proceeding in which the  
32 state is already a party.

33 c. A court shall not have jurisdiction over an  
34 action under this section based upon the public  
35 disclosure of allegations or transactions in a  
36 criminal, civil, or administrative hearing, or in a  
37 legislative, administrative, or state auditor report,  
38 hearing, audit, or investigation, or from the news  
39 media, unless the action is brought by the attorney  
40 general or the qui tam plaintiff is an original source  
41 of the information.

42 d. The state is not liable for expenses which a  
43 person incurs in bringing an action under this section.

44 6. Any employee, contractor, or agent who is  
45 discharged, demoted, suspended, threatened, harassed,  
46 or in any other manner discriminated against in  
47 the terms and conditions of employment because of  
48 lawful acts performed by the employee, contractor,  
49 or agent on behalf of the employee, contractor, or



50 agent or associated others in furtherance of other  
1 efforts to stop a violation of this chapter, shall  
2 be entitled to all relief necessary to make the  
3 employee, contractor, or agent whole. Such relief  
4 shall include reinstatement with the same seniority  
5 status such employee, contractor, or agent would have  
6 had but for the discrimination, two times the amount of  
7 back pay, interest on the back pay, and compensation  
8 for any special damages sustained as a result of  
9 the discrimination, including litigation costs and  
10 reasonable attorney fees. An employee, contractor, or  
11 agent may bring an action in the appropriate district  
12 court of the state for the relief provided in this  
13 subsection.

14 Sec. \_\_\_\_\_. NEW SECTION. **685.4 Procedure — statute**  
15 **of limitations.**

16 1. A subpoena requiring the attendance of a witness  
17 at a trial or hearing conducted under this chapter may  
18 be served at any place in the state, or through any  
19 means authorized in the Iowa rules of civil procedure.

20 2. A civil action under this chapter may not be  
21 brought more than six years after the date on which  
22 the violation of section 685.2 is committed, or more  
23 than three years after the date when facts material  
24 to the right of action are known or reasonably should  
25 have been known by the official of state charged with  
26 responsibility to act in the circumstances, but in no  
27 event more than ten years after the date on which the  
28 violation is committed, whichever occurs last.

29 3. If the state elects to intervene and proceed  
30 with an action brought under this chapter, the state  
31 may file its own complaint or amend the complaint of  
32 a qui tam plaintiff to clarify or add detail to the  
33 claims in which the state is intervening and to add  
34 any additional claims with respect to which the state  
35 contends it is entitled to relief. For statute of  
36 limitations purposes, any such state pleading shall  
37 relate back to the filing date of the complaint of the  
38 qui tam plaintiff who originally brought the action, to  
39 the extent that the claim of the state arises out of  
40 the conduct, transactions, or occurrences set forth,  
41 or attempted to be set forth, in the prior complaint  
42 of that person.

43 4. In any action brought under section 685.3, the  
44 state shall prove all essential elements of the cause  
45 of action, including damages, by a preponderance of the  
46 evidence.

47 5. Notwithstanding any other provision of law, the  
48 Iowa rules of criminal procedure, or the Iowa rules of  
49 evidence, a final judgment rendered in favor of the

50 state in any criminal proceeding charging fraud or  
1 false statements, whether upon a verdict after trial  
2 or upon a plea of guilty or nolo contendere, shall  
3 estop the defendant from denying the essential elements  
4 of the offense in any action which involves the same  
5 transaction as in the criminal proceeding and which is  
6 brought under section 685.3.

7 Sec. \_\_\_\_\_. NEW SECTION. **685.5 Jurisdiction.**

8 1. Any action under section 685.3 may be brought  
9 in any county in which the defendant or, in the case  
10 of multiple defendants, any one defendant can be  
11 found, resides, transacts business, or in which any  
12 act proscribed by section 685.2 occurred. An original  
13 notice as required by the Iowa rules of civil procedure  
14 shall be issued by the appropriate district court and  
15 served in accordance with the Iowa rules of civil  
16 procedure.

17 2. A seal on the action ordered by the court under  
18 section 685.3 shall not preclude the state, local  
19 government, or the qui tam plaintiff from serving  
20 the complaint, any other pleadings, or the written  
21 disclosure of substantially all material evidence and  
22 information possessed by the qui tam plaintiff on the  
23 law enforcement authorities that are authorized under  
24 the law of the state or local government to investigate  
25 and prosecute such actions on behalf of such  
26 governments, except that such seal applies to the law  
27 enforcement authorities so served to the same extent as  
28 the seal applies to other parties in the action.

29 Sec. \_\_\_\_\_. NEW SECTION. **685.6 Civil investigative**  
30 **demands.**

31 1. *Issuance and service.*

32 a. If the attorney general, or a designee, for the  
33 purposes of this section, has reason to believe that  
34 any person may be in possession, custody, or control  
35 of any documentary material or information relevant  
36 to a false claims law investigation, the attorney  
37 general, or a designee, may, before commencing a civil  
38 proceeding under section 685.3, subsection 1, or other  
39 false claims law, or making an election under section  
40 685.3, subsection 2, issue in writing and cause to be  
41 served upon such person, a civil investigative demand  
42 requiring any of the following of such person:

43 (1) To produce such documentary material for  
44 inspection and copying.

45 (2) To answer in writing, written interrogatories  
46 with respect to such documentary material or  
47 information.

48 (3) To give oral testimony concerning such  
49 documentary material or information.

50 (4) To furnish any combination of such material,  
1 answers, or testimony.

2 b. The attorney general may delegate the authority  
3 to issue civil investigative demands under this  
4 subsection. If a civil investigative demand is an  
5 express demand for any product of discovery, the  
6 attorney general, a deputy attorney general, or an  
7 assistant attorney general shall cause to be served,  
8 in any manner authorized by this section, a copy of  
9 such demand upon the person from whom the discovery  
10 was obtained and shall notify the person to whom such  
11 demand is issued of the date on which such copy was  
12 served. Any information obtained by the attorney  
13 general or a designee of the attorney general under  
14 this section may be shared with any qui tam plaintiff  
15 if the attorney general or designee determines  
16 it is necessary as part of any false claims law  
17 investigation.

18 2. *Contents and deadlines.*

19 a. Each civil investigative demand issued under  
20 subsection 1 shall state the nature of the conduct  
21 constituting the alleged violation of a false claims  
22 law which is under investigation, and the applicable  
23 provision of law alleged to be violated.

24 b. If such demand is for the production of  
25 documentary material, the demand shall provide all of  
26 the following:

27 (1) Describe each class of documentary material to  
28 be produced with such definiteness and certainty as to  
29 permit such material to be fairly identified.

30 (2) Prescribe a return date for each such class  
31 which will provide a reasonable period of time within  
32 which the material so demanded may be assembled and  
33 made available for inspection and copying.

34 (3) Identify the false claims law investigator to  
35 whom such material shall be made available.

36 c. If such demand is for answers to written  
37 interrogatories, the demand shall provide for all of  
38 the following:

39 (1) Set forth with specificity the written  
40 interrogatories to be answered.

41 (2) Prescribe dates at which time answers to  
42 written interrogatories shall be submitted.

43 (3) Identify the false claims law investigator to  
44 whom such answers shall be submitted.

45 d. If such demand is for the giving of oral  
46 testimony, the demand shall provide for all of the  
47 following:

48 (1) Prescribe a date, time, and place at which oral  
49 testimony shall be commenced.

50 (2) Identify a false claims law investigator who  
1 shall conduct the examination and the custodian to whom  
2 the transcript of such examination shall be submitted.

3 (3) Specify that such attendance and testimony are  
4 necessary to the conduct of the investigation.

5 (4) Notify the person receiving the demand of the  
6 right to be accompanied by an attorney and any other  
7 representative.

8 (5) Describe the general purpose for which the  
9 demand is being issued and the general nature of the  
10 testimony, including the primary areas of inquiry,  
11 which will be taken pursuant to the demand.

12 e. Any civil investigative demand issued under this  
13 section which is an express demand for any product of  
14 discovery shall not be returned or returnable until  
15 twenty days after a copy of such demand has been served  
16 upon the person from whom the discovery was obtained.

17 f. The date prescribed for the commencement of oral  
18 testimony pursuant to a civil investigative demand  
19 issued under this section shall be a date which is not  
20 less than seven days after the date on which demand is  
21 received, unless the attorney general or an assistant  
22 attorney general designated by the attorney general  
23 determines that exceptional circumstances are present  
24 which warrant the commencement of such testimony within  
25 a lesser period of time.

26 g. The attorney general shall not authorize the  
27 issuance under this section of more than one civil  
28 investigative demand for oral testimony by the same  
29 person, unless the person requests otherwise or unless  
30 the attorney general, after investigation, notifies  
31 that person in writing that an additional demand for  
32 oral testimony is necessary.

33 3. *Protected material or information.*

34 a. A civil investigative demand issued under  
35 subsection 1 shall not require the production of any  
36 documentary material, the submission of any answers  
37 to written interrogatories, or the giving of any oral  
38 testimony if such material, answers, or testimony  
39 would be protected from disclosure under any of the  
40 following:

41 (1) The standards applicable to subpoenas or  
42 subpoenas duces tecum issued by a court of the state to  
43 aid in a grand jury investigation.

44 (2) The standards applicable to discovery requests  
45 under the Iowa rules of civil procedure, to the  
46 extent that the application of such standards to any  
47 such demand is appropriate and consistent with the  
48 provisions and purposes of this section.

49 b. Any such demand which is an express demand for

50 any product of discovery, supersedes any inconsistent  
1 order, rule, or provision of law, other than this  
2 section, preventing or restraining disclosure of such  
3 product of discovery to any person. Disclosure of  
4 any product of discovery pursuant to any such express  
5 demand does not constitute a waiver of any right or  
6 privilege which the person making such disclosure may  
7 be entitled to invoke to resist discovery of trial  
8 preparation materials.

9 4. *Service.*

10 a. Any civil investigative demand issued under  
11 subsection 1 may be served by a false claims law  
12 investigator, or by any official authorized to issue  
13 civil investigative demands.

14 b. Service of any civil investigative demand  
15 issued under subsection 1 or of any petition filed  
16 under subsection 9 may be made upon a partnership,  
17 corporation, association, or other legal entity by any  
18 of the following methods:

19 (1) Delivering an executed copy of such demand  
20 or petition to any partner, executive officer,  
21 managing agent, or general agent of the partnership,  
22 corporation, association, or entity, or to any agent  
23 authorized by appointment or by law to receive service  
24 of process on behalf of such partnership, corporation,  
25 association, or entity.

26 (2) Delivering an executed copy of such demand or  
27 petition to the principal office or place of business  
28 of the partnership, corporation, association, or  
29 entity.

30 (3) Depositing an executed copy of such demand  
31 or petition in the United States mails by registered  
32 or certified mail, with a return receipt requested,  
33 addressed to such partnership, corporation,  
34 association, or entity at its principal office or place  
35 of business.

36 c. Service of any such demand or petition may be  
37 made upon any natural person by any of the following  
38 methods:

39 (1) Delivering an executed copy of such demand or  
40 petition to the person.

41 (2) Depositing an executed copy of such demand  
42 or petition in the United States mails by registered  
43 or certified mail, with a return receipt requested,  
44 addressed to the person at the person's residence or  
45 principal office or place of business.

46 d. A verified return by the individual serving any  
47 civil investigative demand issued under subsection 1 or  
48 any petition filed under subsection 9 setting forth the  
49 manner of such service shall be proof of such service.

50 In the case of service by registered or certified mail,  
1 such return shall be accompanied by the return post  
2 office receipt of delivery of such demand.

3 5. *Documentary material.*

4 a. The production of documentary material in  
5 response to a civil investigative demand served under  
6 this section shall be made under a sworn certificate,  
7 in such form as the demand designates, by the following  
8 persons, as applicable:

9 (1) In the case of a natural person, the person to  
10 whom the demand is directed.

11 (2) In the case of a person other than a natural  
12 person, a person having knowledge of the facts  
13 and circumstances relating to such production and  
14 authorized to act on behalf of such person.

15 b. The certificate shall state that all of the  
16 documentary material required by the demand and in  
17 the possession, custody, or control of the person to  
18 whom the demand is directed has been produced and  
19 made available to the false claims law investigator  
20 identified in the demand.

21 c. Any person upon whom any civil investigative  
22 demand for the production of documentary material has  
23 been served under this section shall make such material  
24 available for inspection and copying to the false  
25 claims law investigator identified in such demand at  
26 the principal place of business of such person, or at  
27 such other place as the false claims law investigator  
28 and the person agree and prescribe in writing, or as  
29 the court may direct under subsection 9. Such material  
30 shall be made available on the return date specified in  
31 such demand, or on such later date as the false claims  
32 law investigator may prescribe in writing. Such person  
33 may, upon written agreement between the person and the  
34 false claims law investigator, substitute copies for  
35 originals of all or any part of such material.

36 6. *Interrogatories.*

37 a. Each interrogatory in a civil investigative  
38 demand served under this section shall be answered  
39 separately and fully in writing under oath and shall  
40 be submitted under a sworn certificate, in such form  
41 as the demand designates, by the following persons, as  
42 applicable:

43 (1) In the case of a natural person, the person to  
44 whom the demand is directed.

45 (2) In the case of a person other than a natural  
46 person, the person or persons responsible for answering  
47 each interrogatory.

48 b. If any interrogatory is objected to, the reasons  
49 for the objection shall be stated in the certificate

50 instead of an answer. The certificate shall state  
1 that all information required by the demand and in  
2 the possession, custody, control, or knowledge of  
3 the person to whom the demand is directed has been  
4 submitted. To the extent that any information is not  
5 furnished, the information shall be identified and  
6 reasons set forth with particularity regarding the  
7 reasons why the information was not furnished.

8     7. *Oral examinations.*

9     a. The examination of any person pursuant to a  
10 civil investigative demand for oral testimony served  
11 under this section shall be taken before an officer  
12 authorized to administer oaths and affirmations by  
13 the laws of this state or of the place where the  
14 examination is held. The officer before whom the  
15 testimony is to be taken shall put the witness on oath  
16 or affirmation and shall, personally or by someone  
17 acting under the direction of the officer and in  
18 the officer's presence, record the testimony of the  
19 witness. The testimony shall be taken stenographically  
20 and shall be transcribed. When the testimony is fully  
21 transcribed, the officer before whom the testimony is  
22 taken shall promptly transmit a copy of the transcript  
23 of the testimony to the custodian. This subsection  
24 shall not preclude the taking of testimony by any means  
25 authorized by, and in a manner consistent with, the  
26 Iowa rules of civil procedure.

27     b. The false claims law investigator conducting  
28 the examination shall exclude from the place where  
29 the examination is held all persons except the person  
30 giving the testimony, the attorney for and any other  
31 representative of the person giving the testimony, the  
32 attorney for the state, any person who may be agreed  
33 upon by the attorney for the state and the person  
34 giving the testimony, the officer before whom the  
35 testimony is to be taken, and any stenographer taking  
36 such testimony.

37     c. The oral testimony of any person taken pursuant  
38 to a civil investigative demand served under this  
39 section shall be taken in any state in which such  
40 person resides, is found, or transacts business, or in  
41 such other place as may be agreed upon by the false  
42 claims law investigator conducting the examination and  
43 such person.

44     d. When the testimony is fully transcribed, the  
45 false claims law investigator or the officer before  
46 whom the testimony is taken shall afford the witness,  
47 who may be accompanied by counsel, a reasonable  
48 opportunity to examine and read the transcript, unless  
49 such examination and reading are waived by the witness.

50 Any changes in form or substance which the witness  
1 desires to make shall be entered and identified upon  
2 the transcript by the officer or the false claims law  
3 investigator, with a statement of the reasons given by  
4 the witness for making such changes. The transcript  
5 shall then be signed by the witness, unless the witness  
6 in writing waives the signing, is ill, cannot be found,  
7 or refuses to sign. If the transcript is not signed by  
8 the witness within thirty days after being afforded a  
9 reasonable opportunity to examine the transcript, the  
10 officer or the false claims law investigator shall sign  
11 the transcript and state on the record the fact of the  
12 waiver, illness, absence of the witness, or the refusal  
13 to sign, together with the reasons, if any, for the  
14 waiver, illness, absence, or refusal.

15 e. The officer before whom the testimony is taken  
16 shall certify on the transcript that the witness was  
17 sworn by the officer and that the transcript is a true  
18 record of the testimony given by the witness, and the  
19 officer or false claims law investigator shall promptly  
20 deliver the transcript, or send the transcript by  
21 registered or certified mail, to the custodian.

22 f. Upon payment of reasonable charges for a copy,  
23 the false claims law investigator shall furnish a copy  
24 of the transcript to the witness only, except that the  
25 attorney general, the deputy attorney general, or an  
26 assistant attorney general may, for good cause, limit  
27 such witness to inspection of the official transcript  
28 of the witness' testimony.

29 g. (1) Any person compelled to appear for oral  
30 testimony under a civil investigative demand issued  
31 under subsection 1 may be accompanied, represented, and  
32 advised by counsel. Counsel may advise such person,  
33 in confidence, with respect to any question asked of  
34 such person. Such person or counsel may object on  
35 the record to any question, in whole or in part, and  
36 shall briefly state for the record the reason for the  
37 objection. An objection may be made, received, and  
38 entered upon the record when it is claimed that such  
39 person is entitled to refuse to answer the question  
40 on the grounds of any constitutional or other legal  
41 right or privilege, including the privilege against  
42 self-incrimination. Such person may not otherwise  
43 object to or refuse to answer any question, and may not  
44 directly or through counsel otherwise interrupt the  
45 oral examination. If such person refuses to answer any  
46 question, a petition may be filed in the district court  
47 of the state under subsection 9 for an order compelling  
48 such person to answer such question.

49 (2) If such person refuses to answer any



50 question on the grounds of the privilege against  
1 self-incrimination, the testimony of such person may be  
2 compelled in accordance with applicable law.

3 *h.* Any person appearing for oral testimony under a  
4 civil investigative demand issued under subsection 1  
5 shall be entitled to the same fees and allowances which  
6 are paid to witnesses in the district courts of the  
7 state.

8 *8. Custodians of documents, answers, and*  
9 *transcripts.*

10 *a.* The attorney general shall designate a false  
11 claims law investigator to serve as custodian of  
12 documentary material, answers to interrogatories, and  
13 transcripts of oral testimony received under this  
14 section, and shall designate such additional false  
15 claims law investigators as the attorney general  
16 determines from time to time to be necessary to serve  
17 as deputies to the custodian.

18 *b.* (1) A false claims law investigator who  
19 receives any documentary material, answers to  
20 interrogatories, or transcripts of oral testimony under  
21 this section shall transmit them to the custodian.  
22 The custodian shall take physical possession of  
23 such material, answers, or transcripts and shall  
24 be responsible for their use and for the return of  
25 documentary material under paragraph "d".

26 (2) The custodian may cause the preparation of  
27 such copies of such documentary material, answers to  
28 interrogatories, or transcripts of oral testimony as  
29 may be required for official use by any false claims  
30 law investigator, or other officer or employee of the  
31 department of justice. Such material, answers, and  
32 transcripts may be used by any such authorized false  
33 claims law investigator or other officer or employee  
34 in connection with the taking of oral testimony under  
35 this section.

36 (3) Except as otherwise provided in this  
37 subsection, documentary material, answers to  
38 interrogatories, or transcripts of oral testimony,  
39 or copies of documentary materials, answers or  
40 transcripts, while in the possession of the custodian,  
41 shall not be available for examination by any  
42 individual other than a false claims law investigator  
43 or other officer or employee of the department  
44 of justice authorized under subparagraph 2. This  
45 prohibition on the availability of material, answers,  
46 or transcripts shall not apply if consent is given  
47 by the person who produced such material, answers,  
48 or transcripts, or, in the case of any product of  
49 discovery produced pursuant to an express demand

50 for such material, consent is given by the person  
1 from whom the discovery was obtained. Nothing in  
2 this subparagraph is intended to prevent disclosure  
3 to the general assembly, including any committee  
4 or subcommittee of the general assembly, or to any  
5 other agency of the state for use by such agency in  
6 furtherance of its statutory responsibilities.

7 (4) While in the possession of the custodian and  
8 under such reasonable terms and conditions as the  
9 attorney general shall prescribe all of the following  
10 shall apply, as applicable:

11 (a) Documentary material and answers to  
12 interrogatories shall be available for examination by  
13 the person who produced such material or answers, or  
14 by a representative of that person authorized by that  
15 person to examine such material and answers.

16 (b) Transcripts of oral testimony shall be  
17 available for examination by the person who produced  
18 such testimony, or by a representative of that person  
19 authorized by that person to examine such transcripts.

20 c. If an attorney of the department of justice  
21 has been designated to appear before any court, grand  
22 jury, state agency, or federal agency in any case or  
23 proceeding, the custodian of any documentary material,  
24 answers to interrogatories, or transcripts of oral  
25 testimony received under this section may deliver to  
26 such attorney such material, answers, or transcripts  
27 for official use in connection with any such case or  
28 proceeding as such attorney determines to be required.  
29 Upon the completion of any such case or proceeding,  
30 such attorney shall return to the custodian any such  
31 material, answers, or transcripts delivered which have  
32 not passed into the control of such court, grand jury,  
33 or agency through introduction into the record of such  
34 case or proceeding.

35 d. If any documentary material has been produced  
36 by any person in the course of any false claims  
37 law investigation pursuant to a civil investigative  
38 demand under this section, and any case or proceeding  
39 before the court or grand jury arising out of such  
40 investigation, or any proceeding before any state  
41 agency or federal agency involving such material,  
42 has been completed, or a case or proceeding in which  
43 such material may be used has not been commenced  
44 within a reasonable time after completion of the  
45 examination and analysis of all documentary material  
46 and other information assembled in the course of such  
47 investigation, the custodian shall, upon written  
48 request of the person who produced such material,  
49 return to such person any such material, other than

50 copies furnished to the false claims law investigator  
1 under subsection 5 or made for the department of  
2 justice under paragraph "b" which has not passed  
3 into the control of any court, grand jury, or agency  
4 through introduction into the record of such case or  
5 proceeding.

6 e. (1) In the event of the death, disability, or  
7 separation from service in the department of justice  
8 of the custodian of any documentary material, answers  
9 to interrogatories, or transcripts of oral testimony  
10 produced pursuant to a civil investigative demand under  
11 this section, or in the event of the official relief  
12 of such custodian from responsibility for the custody  
13 and control of such material, answers, or transcripts,  
14 the attorney general shall promptly do all of the  
15 following:

16 (a) Designate another false claims law investigator  
17 to serve as custodian of such material, answers, or  
18 transcripts.

19 (b) Transmit in writing to the person who produced  
20 such material, answers, or testimony notice of the  
21 identity and address of the successor designated.

22 (2) Any person who is designated to be a successor  
23 under this paragraph "e" shall have, with regard to  
24 such material, answers, or transcripts, the same duties  
25 and responsibilities as were imposed by this section  
26 upon that person's predecessor in office, except that  
27 the successor shall not be held responsible for any  
28 default or dereliction which occurred before that  
29 designation.

30 9. *Judicial proceedings.*

31 a. If a person fails to comply with any civil  
32 investigative demand issued under subsection 1, or if  
33 satisfactory copying or reproduction of any material  
34 requested in such demand cannot be completed and such  
35 person refuses to surrender such material, the attorney  
36 general may file, in the district court of the state  
37 for any county in which such person resides, is found,  
38 or transacts business, and serve upon such person, a  
39 petition for an order of such court for the enforcement  
40 of the civil investigative demand.

41 b. (1) A person who has received a civil  
42 investigative demand issued under subsection 1 may  
43 file, in the district court of the state for the  
44 county within which such person resides, is found, or  
45 transacts business, and serve upon the false claims  
46 law investigator identified in such demand, a petition  
47 for an order of the court to modify or set aside such  
48 demand. In the case of a petition addressed to an  
49 express demand for any product of discovery, a petition

50 to modify or set aside such demand may be brought only  
1 in the district court of the state for the county  
2 in which the proceeding in which such discovery was  
3 obtained is or was last pending. Any petition under  
4 this paragraph shall be filed in accordance with the  
5 following, as applicable:

6 (a) Within twenty days after the date of service of  
7 the civil investigative demand, or at any time before  
8 the return date specified in the demand, whichever date  
9 is earlier.

10 (b) Within such longer period as may be prescribed  
11 in writing by any false claims law investigator  
12 identified in the demand.

13 (2) The petition shall specify each ground upon  
14 which the petitioner relies in seeking relief under  
15 subparagraph (1), and may be based upon any failure  
16 of the demand to comply with the provisions of this  
17 section or upon any constitutional or other legal right  
18 or privilege of such person. During the pendency of  
19 the petition in the court, the court may stay, as it  
20 deems proper, the running of the time allowed for  
21 compliance with the demand, in whole or in part, except  
22 that the person filing the petition shall comply with  
23 any portions of the demand not sought to be modified  
24 or set aside.

25 c. (1) In the case of any civil investigative  
26 demand issued under subsection 1 which is an express  
27 demand for any product of discovery, the person from  
28 whom such discovery was obtained may file, in the  
29 district court of the state for the county in which  
30 the proceeding in which such discovery was obtained is  
31 or was last pending, and serve upon any false claims  
32 law investigator identified in the demand and upon the  
33 recipient of the demand, a petition for an order of  
34 such court to modify or set aside those portions of  
35 the demand requiring production of any such product  
36 of discovery. Any petition under this subparagraph  
37 shall be filed in accordance with the following, as  
38 applicable:

39 (a) Within twenty days after the date of service of  
40 the civil investigative demand, or at any time before  
41 the return date specified in the demand, whichever date  
42 is earlier.

43 (b) Within such longer period as may be prescribed  
44 in writing by any false claims law investigator  
45 identified in the demand.

46 (2) The petition shall specify each ground upon  
47 which the petitioner relies in seeking relief under  
48 subparagraph (1), and may be based upon any failure of  
49 the portions of the demand from which relief is sought

50 to comply with the provisions of this section, or upon  
1 any constitutional or other legal right or privilege of  
2 the petitioner. During the pendency of the petition,  
3 the court may stay, as it deems proper, compliance with  
4 the demand and the running of the time allowed for  
5 compliance with the demand.

6 *d.* At any time during which any custodian is in  
7 custody or control of any documentary material or  
8 answers to interrogatories produced, or transcripts of  
9 oral testimony given, by any person in compliance with  
10 any civil investigative demand issued under subsection  
11 1, such person, and in the case of an express demand  
12 for any product of discovery, the person from whom such  
13 discovery was obtained, may file, in the district court  
14 of state for the judicial district within which the  
15 office of such custodian is located, and serve upon  
16 such custodian, a petition for an order of such court  
17 to require the performance by the custodian of any duty  
18 imposed upon the custodian by this section.

19 *e.* If a petition is filed in any district court  
20 of the state under this subsection, such court shall  
21 have jurisdiction to hear and determine the matter so  
22 presented, and to enter such order or orders as may be  
23 required to carry out the provisions of this section.  
24 Any final order so entered shall be subject to appeal  
25 in accordance with the Iowa rules of civil procedure.  
26 Any disobedience of any final order entered under this  
27 section by any court shall be punished as a contempt  
28 of the court.

29 *f.* The Iowa rules of civil procedure shall apply to  
30 any petition under this subsection, to the extent that  
31 such rules are not inconsistent with the provisions of  
32 this section.

33 10. *Disclosure exemption.* Any documentary material,  
34 answers to written interrogatories, or oral testimony  
35 provided under any civil investigative demand issued  
36 under subsection 1 shall be deemed confidential and  
37 exempt from disclosure under chapter 22.

38 Sec. \_\_\_\_\_. **NEW SECTION. 685.7 Rulemaking authority.**  
39 The attorney general may adopt such rules and  
40 regulations as are necessary to effectuate the purposes  
41 of this chapter.

42 Sec. \_\_\_\_\_. **ANNUAL REPORTING REQUIREMENT.** On the  
43 thirtieth day after the effective date of this division  
44 of this Act, and on the anniversary of the effective  
45 date of this division of this Act each year thereafter,  
46 the attorney general shall submit to the chairpersons  
47 and ranking members of the house and senate committees  
48 on judiciary, the legislative caucus staffs, and the  
49 legislative services agency, in electronic format, a

50 report containing all of the following information:

1 1. The number of cases the attorney general filed  
2 during the previous calendar year under this chapter.

3 2. The number of cases qui tam plaintiffs filed  
4 under this chapter during the previous calendar year,  
5 including those cases that remain under seal, and  
6 specifying all of the following for the cases:

7 a. The state or federal court in which each case  
8 was filed and the total number filed in each court.

9 b. The state program or agency involved in each  
10 case.

11 c. The number of cases filed by qui tam plaintiffs  
12 who previously filed an action based on the same or  
13 similar transaction or allegation under the federal  
14 False Claims Act or the false claims act of another  
15 state.

16 3. The amount recovered by the state in the form of  
17 settlement, damages, penalties, and litigation costs,  
18 if known, and specifying the following for each case:

19 a. The case number and parties for each case in  
20 which there was a recovery.

21 b. The amount of funds recovered respectively for  
22 damages, penalties, and litigation costs.

23 c. The percentage of the recovery and the amount  
24 that the state paid to any qui tam plaintiff.

25 Sec. \_\_\_\_\_. DEPARTMENT OF JUSTICE — FALSE CLAIMS ACT  
26 ENFORCEMENT. There is appropriated from the general  
27 fund of the state to the department of justice for the  
28 fiscal year beginning July 1, 2010, and ending June 30,  
29 2011, the following amount, or so much thereof as is  
30 necessary, to be used for the purposes designated:

31 For the general office of the attorney general,  
32 including salaries, support, maintenance, miscellaneous  
33 purposes, and for not more than the following full-time  
34 equivalent positions:

35 ..... \$ 60,000  
36 ..... FTEs 1.00>>

37 28. By striking page 29, line 23, through page 30,  
38 line 21, and inserting <222, line 2.>

39 29. Page 31, after line 50 by inserting:

40 <\_\_\_\_. Page 253, line 19, by striking <four> and  
41 inserting <two>

42 \_\_\_\_\_. Page 254, line 26, by striking <2014> and  
43 inserting <2013>

44 \_\_\_\_\_. Page 254, line 27, by striking <fourth> and  
45 inserting <second>>

46 30. Page 32, by striking lines 1 through 33.

47 31. By renumbering as necessary.

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MASCHER of Johnson